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Attorneys for Complainant

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC-2004-38

KENNETH E. WALSH,

Respondent.

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 22, 2004, Complainant Carol Sigmann, in her official capacity as the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs, filed Accusation No. AC-2004-38 against KENNETH E. WALSH (Respondent) before the California Board of Accountancy.

2. On or about December 6, 1985, the California Board of Accountancy issued Certified Public Accountant certificate No. 44359 to Kenneth E. Walsh (Respondent).

3. The Certificate was expired during the period of August 1, 1989, through August 12, 1990, because the renewal fee, required by the Business and Professions Code 5070.6, was not paid; and a declaration of compliance with continuing education regulations was not submitted.

4. The Certificate was subsequently renewed effective August 13, 1990, through July 31, 1991. The Certificate was expired during the period August 1, 1991, through

1 November 6, 1991, again due to failure to pay the renewal fee and submit a declaration of
2 compliance with continuing education requirements.

3 5. The Certificate was subsequently renewed effective November 7, 1991,
4 through July 31, 1993. The Certificate was expired during the period August 1, 1993, through
5 November 29, 1993, again due to failure to pay the renewal fee and submit a declaration of
6 compliance with continuing education requirements.

7 6. The Certificate was subsequently renewed effective November 30, 1993,
8 through July 31, 1995. The Certificate was expired during the period August 1, 1995, through
9 April 10, 1996, again, due to failure to pay the renewal fee and submit a declaration of
10 compliance with continuing education requirements.

11 7. The Certificate was subsequently renewed effective April 11, 1996,
12 through July 31, 1997. The Certificate was expired during the period August 1, 1997, through
13 September 11, 1997, again, due to failure to pay the renewal fee and submit a declaration of
14 compliance with continuing education requirements.

15 8. The Certificate was subsequently renewed effective September 12, 1997,
16 through July 31, 1999. The Certificate was expired effective August 1, 1999, through May 9,
17 2001, again, due to failure to pay the renewal fee and submit a declaration of compliance with
18 continuing education requirements.

19 9. The Certificate was subsequently renewed effective May 10, 2001, through
20 July 31, 2001. The Certificate was expired effective August 1, 2001, through May 16, 2002,
21 again for failure to pay the renewal fee and submit a declaration of compliance with continuing
22 education requirements.

23 10. The Certificate expired on effective August 1, 2003 and has not been
24 renewed.

25 11. On or about December 1, 2004, Judith A. Baerresen, an employee of the
26 Office of Attorney General, served by Certified and First Class Mail a copy of the Accusation
27 No. AC-2004-38, Statement to Respondent, Notice of Defense, Request for Discovery, and
28 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's latest address on file

1 with the Board, which was and is 326 South Pacific Coast Highway, Suite 203, Redondo Beach,
2 CA 90277. A copy of the Accusation, the related documents, and Declaration of Service are
3 attached to this Decision as **EXHIBIT A**, and incorporated herein by reference.

4 12. Per the attached Declaration of Susan Melton Wilson, Deputy Attorney
5 General, attached to this Decision as **EXHIBIT B**, and incorporated herein by reference.
6 Respondent's last reported address of record varies slightly from the address where the
7 Accusation was served, and was found to be incorrect by Board investigators. Said investigators
8 located his current correct address, where Respondent has been personally served at the direction
9 of the Office of Attorney General twice in a related civil matter - most recently on November 18,
10 2004 - at 326 South Pacific Coast Highway, Suite 203, Redondo Beach, CA 90277.

11 13. On or about December 6, 2004, the certified mailing return card was
12 received at the Office of Attorney General, indicating delivery by the postal service of the
13 Accusation and related documents to the addressee. The return card, which appears to bear the
14 signature of Respondent, is attached hereto as **EXHIBIT C**, and incorporated herein by
15 reference.

16 14. Service of the Accusation was effective as a matter of law under the
17 provisions of Government Code section 11505, subdivision (c).

18 15. Government Code section 11506 states, in pertinent part:

19 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
20 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
21 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
22 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

23 16. Respondent failed to file a Notice of Defense within 15 days after service
24 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
25 Accusation No. AC-2004-38.

26 17. California Government Code section 11520 states, in pertinent part:

27 "(a) If the respondent either fails to file a notice of defense or to appear at the
28 hearing, the agency may take action based upon the respondent's express admissions or

1 upon other evidence and affidavits may be used as evidence without any notice to
2 respondent."

3 18. Pursuant to its authority under Government Code section 11520, the Board
4 finds Respondent is in default. The Board will take action without further hearing and, based on
5 Respondent's express admissions by way of default and the evidence before it, contained in
6 EXHIBITS A, B, C and Board investigative files related to this Respondent, finds that the
7 allegations in Accusation No. AC-2004-38 are true.

8 19. The total costs for investigation and enforcement are \$4,840.00 (Four
9 thousand, eight hundred, forty dollars) as of December 22, 2004.

10 DETERMINATION OF ISSUES

11 1. Based on the foregoing findings of fact, Respondent KENNETH E.
12 WALSH has subjected his Certified Public Accountant certificate No. 44359 to discipline.

13 2. A copy of the Accusation and the related documents and Declaration of
14 Service are attached.

15 3. The agency has jurisdiction to adjudicate this case by default.

16 4. The California Board of Accountancy is authorized to revoke Respondent's
17 Certified Public Accountant certificate No. 44359 based upon the following violations alleged in
18 the Accusation:

19 a. Respondent is subject to disciplinary action under section 5100,
20 subdivision (g) due to willful violation of section 5050 in that he engaged in the practice of
21 accountancy without a valid license on or about February 27, 2002.

22 b. Respondent is subject to disciplinary action under section 5100,
23 subdivision (g) and Title 16, California Code of Regulations section 52, subdivisions (a), (b) and
24 (c), due to his failure to respond to Board investigative inquiries, and his failure to comply with
25 the Board's duly issued investigatory subpoena.

26 c. Respondent is subject to disciplinary action under section 5100,
27 subdivision (g) due to his willful violation of Title 16, California Code of Regulations section 52,
28 as described more fully in the Accusation.

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Exhibit A

Accusation No. AC-2004-38,
Related Documents and Declaration of Service

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STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. AC-2004-38

KENNETH E. WALSH
326 S Pacific Coast Hwy., Suite 203
Redondo Beach, CA 90277

ACCUSATION

Certified Public Accountant,
Certificate No. 44359

Respondent.

Complainant CAROL SIGMANN, for causes for discipline alleges:

PARTIES

1. Carol Sigmann (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

2. On or about December 6, 1985, the California Board of Accountancy issued Certificate Public Accountant certificate No. 44359 to Kenneth E. Walsh (Respondent).

3. The Certificate was expired during the period of August 1, 1989, through August 12, 1990, because the renewal fee, required by the Business and Professions Code 5070.6, was not paid; and a declaration of compliance with continuing education regulations was not submitted.

W

1 4. The Certificate was subsequently renewed effective August 13, 1990,
2 through July 31, 1991. The Certificate was expired during the period August 1, 1991, through
3 November 6, 1991, again due to failure to pay the renewal fee and submit a declaration of
4 compliance with continuing education requirements.

5 5. The Certificate was subsequently renewed effective November 7, 1991,
6 through July 31, 1993. The Certificate was expired during the period August 1, 1993, through
7 November 29, 1993, again due to failure to pay the renewal fee and submit declaration of
8 compliance with continuing education requirements.

9 6. The Certificate was subsequently renewed effective November 30, 1993,
10 through July 31, 1995. The Certificate was expired during the period August 1, 1995, through
11 April 10, 1996, again, due to failure to pay the renewal fee and submit a declaration of
12 compliance with continuing education requirements.

13 7. The Certificate was subsequently renewed effective April 11, 1996,
14 through July 31, 1997. The Certificate was expired during the period August 1, 1997, through
15 September 11, 1997, again, due to failure to pay the renewal fee and submit a declaration of
16 compliance with continuing education requirements.

17 8. The Certificate was subsequently renewed effective September 12, 1997,
18 through July 31, 1999. The Certificate was expired effective August 1, 1999, through May 9,
19 2001, again, due to failure to pay the renewal fee and submit a declaration of compliance with
20 continuing education requirements.

21 9. The Certificate was subsequently renewed effective May 10, 2001,
22 through July 31, 2001. The Certificate was expired effective August 1, 2001, through May 16,
23 2002, again for failure to pay the renewal fee and submit a declaration of compliance with
24 continuing education requirements.

25 10. The Certificate was subsequently renewed effective May 17, 2002, through
26 July 31, 2003. The Certificate expired effective August 1, 2003, and has not been renewed.

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JURISDICTION

11. This Accusation is brought before the California Board of Accountancy (Board), under the authority of the following sections of the Business and Professions Code (Code).

12. Business and Professions Code section 5050, states:

"No person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy issued by the board; provided, however, that nothing in this chapter shall prohibit a certified public accountant or a public accountant of another state, or any accountant of a foreign country lawfully practicing therein, from temporarily practicing in this State on professional business incident to his regular practice in another state or country."

certified public accountant or a public accountant before any governmental body or agency."

13. Business and Professions Code section 5100, states:

"After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one of any combination of the following causes:

....

"(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter."

14. California Code of Regulations, title 16, section 3, states:

"(a) Address Notification-Individual Licensees"

"(1) Each licensee shall notify the Board of any change in his or her address of record within 30 days after the change. The address of record is public information. If the address of record is a post office box or mail drop, the change of address notification shall include the street address of either the licensee's primary place of employment or his or her residence."

1 "(2) For purposes of this section, "licensee" includes any holder of an active,
2 inactive, suspended, or expired certified public accountant license or public accountant license
3 issued by the Board which is not canceled or revoked."

4 "(3) All notification required under this subsection shall be in writing and shall be
5 signed by the licensee."

6 15. California Code of Regulations, title 16, section 52, states:

7 "(a) A licensee shall respond to any inquiry by the Board or its appointed
8 representatives within 30 days. The response shall include making available all files, working
9 papers and other documents requested."

10 "(b) A licensee shall respond to any subpoena issued by the Board or its executive
11 officer or the assistant executive officer in the absence of the executive officer within 30 days
12 and in accordance with the provisions of the Accountancy Act and other applicable laws or
13 regulations."

14 FIRST CAUSE FOR DISCIPLINE

15 (Practice of Accountancy Without a Valid License)

16 16. Respondent is subject to disciplinary action under section 5100,
17 subdivision (g) due to willful violation of section 5050 in that he engaged in the practice of
18 accountancy without a valid license on or about February 27, 2002, as follows:

19 A. Respondent prepared and issued an audit report dated February 27,
20 2002, for a corporate client known to Respondent for the years ending December 31, 2001 and
21 2000. However, Respondent's license to practice public accountancy expired on August 1, 2001,
22 and was not renewed until May 16, 2002.

23 SECOND CAUSE FOR DISCIPLINE

24 (Failure to comply With Board Regulations)

25 17. Respondent is subject to disciplinary action under section 5100,
26 subdivision (g) due to multiple, willful violations as defined in Title 16, California Code of
27 Regulations section 52, subdivisions (a), (b) and (c), by reason of his failure to respond to Board
28 inquiries, written and telephonic, and failure to comply with the Board's duly issued

1 investigatory subpoena, as follows:

2 A. WRITTEN AND TELEPHONIC INQUIRIES

3 The Board's investigation case file A-2002-373, opened against Respondent on
4 March 27, 2002, involves professional services rendered to a corporate client. The Board is
5 investigating an allegation that Respondent issued an unqualified audit report for the client for
6 years ending December 31, 2000 and December 31, 2001 without performing necessary
7 procedures to support the opinions rendered in the report.

8 1. March 29, 2002 Inquiry

9 On or about March 29, 2002, the Board's Enforcement Division mailed a request
10 that Respondent provide a copy of the work papers supporting the audit, and other documents, to
11 Respondent's address of record. No response was received within 30 days. No response was
12 ever received.

13 2. September 13, 2002 Inquiry

14 On or about September 13, 2002, a Board investigator sent a second similar
15 inquiry to Respondent's address of record. No response was received within 30 days. No
16 response was ever received.

17 L. April 18, 2003 Inquiry

18 On or about April 18, 2003, a Board investigator telephoned Respondent at his
19 business; and left a voicemail message that he needed to provide audit work papers. The
20 investigator then mailed a third letter, again detailing records to be provided, to Respondent's
21 address of record. No response was received within 30 days. No response was ever received.

22 B. INVESTIGATORY SUBPOENA

23 Complaint authorized issuance of an investigatory subpoena to Respondent,
24 pursuant to Code section 5108 directing Respondent to produce certain documents and
25 information by mail or delivery to the Board's office in Sacramento.

26 1. The subpoena and accompanying documents were served by first class
27 and certified mail to Respondent's address of record on July 17, 2003. Additionally, on or about
28 June 30, 2003, Board investigators located Respondent's business address and personally

delivered a copy of the subpoena to his place of business.

2. On July 21, 2003, by telephone, Respondent informed a Board investigator he had received the subpoena and would comply with it.

3. Respondent has produced nothing in response to the subpoena, timely or otherwise.

THIRD CAUSE FOR DISCIPLINE

(Failure to Comply with Board Regulation)

18. Respondent is subject to disciplinary action under section 5100, subdivision (g) due to willful violation of Title 16, California Code of Regulations section 3 by reason of his failure to report a change of his address of record within 30 days, as follows:

A. On June 23, 2003, Board investigators attempted to personally serve an investigative subpoena to Respondent at his address of record: 329 South Pacific Coast Highway #203, Redondo Beach, California. While at that address, they noted that "329" was a residence, and were told by a female occupant that Respondent did not live there, and that she did not know him. Investigators then noted that a building directly across the street from "329" - at "326 South Pacific Coast Highway" listed Respondent as the occupant of "suite 203." Respondent was not at his office at the time and they left the subpoena at his office door.

B. On July 21, 2003, Respondent confirmed to a Board investigator by telephone that he had actually received the subpoena.

C. Since June of 2003, mailings to Respondent's address of record have been returned by the U.S. Postal Service as "not deliverable."

D. Respondent has reported no change of address to the Board since a July 2001 renewal form, in which he indicated "329 South Pacific Coast Highway, #203" was his current and correct address.

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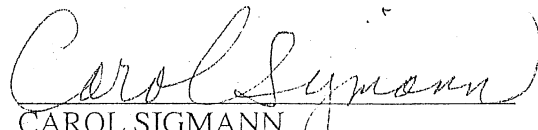
1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

4 1. Revoking, suspending or otherwise imposing discipline upon Certified
5 Public Accountant certificate No. 44359 issued to Kenneth E. Walsh;

6 2. Taking such other and further action as deemed necessary and proper.

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8 DATED: November 22, 2004

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11 CAROL SIGMANN
12 Executive Officer
13 California Board of Accountancy
14 Department of Consumer Affairs
15 State of California
16 Complainant
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